

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	CRIMINAL ACTION NO.
v.	)	2:18cr109-MHT
	)	(WO)
ANTONIO OSCAR TATUM	)	

OPINION AND ORDER

The government has filed a motion to continue the trial of defendant Antonio Oscar Tatum. For the reasons set forth below, the court finds that jury selection and trial, now set for February 4, 2019, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the

defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Tatum in a speedy trial. In its motion for continuance, the government indicates that the forensic analysis of DNA evidence in this case is still in progress. Based on the pending DNA

analysis and representations made on the record on January 29, 2019, the court finds that additional time is necessary for Tatum and his counsel to review sufficiently the evidence once the forensic laboratory's analysis is complete. Tatum does not oppose a continuance. Therefore, the court concludes that a continuance is warranted to enable parties to prepare effectively for trial.

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Accordingly, it is ORDERED as follows:

(1) The government's motion to continue (doc. no. 91) is granted.

(2) The jury selection and trial, now set for February 4, 2019, are reset for March 11, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 30th day of January, 2019.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE